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CHRISTIE, PARKER & HALE, LLP  
PO BOX 7068  
PASADENA, CA 91109-7068

In re Application of SCHROERS et al	:	
U.S. Application No.: 10/542,438	:	
PCT Application No.: PCT/US04/01575	:	
Int. Filing Date: 20 January 2004	:	DECISION
Priority Date Claimed: 17 January 2003	:	
Attorney Docket No.: 51835/JWP/L471	:	
For: METHOD OF MANUFACTURING	:	
AMORPHOUS METALLIC FOAM	:	

This is in response to applicant's "Petition to Add Inventor Under 37 C.F.R. 1.497" filed 02 May 2006.

**BACKGROUND**

On 20 January 2004, applicant filed international application PCT/US04/01575, which claimed priority of an earlier United States application filed 17 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 17 July 2005.

On 15 July 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 March 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 May 2006, applicant filed the present petition under 37 CFR 1.497(d) along with an executed declaration.

## DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, the petition fails to state whether an assignment has been executed by any of the original inventors. If such an assignment exists, written consent of the assignee must be provided, and proof of ownership of the assignee must be established. See 37 CFR 3.73(b).

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Tung  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459